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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/117,219	01/13/1999	CHARLES S. PALM	80802	3437
27975	7590	02/23/2005	EXAMINER	
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.			SAJOUS, WESNER	
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE			ART UNIT	
P.O. BOX 3791			PAPER NUMBER	
ORLANDO, FL 32802-3791			2676	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/117,219	PALM ET AL.	
	Examiner	Art Unit	
	Wesner Sajous	2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remark

This communication is responsive to the amendment filed on October 15, 2004.

Claims 2-10 are presented for examination.

Response to Arguments

1. Applicant's other arguments with respect to claims 2-10 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly

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owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 2-10 are provisionally rejected under the judicially created doctrine of double patenting over claims 1 & 2, 1 & 3, 4, 1 & 5, and 6-10, respectively, of copending Application No. 10/839,314. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

* The subject matters of claim 2 in the instant application are fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the instant application, claim 2, is somewhat a narrow version of claim 1 of the '314 application. The '134 application only lacks the step of a plurality of controls includes one or more controls for controlling to positioning or adjusting the neutral plane of a stereo image. However, such a feature can be found in claim 2 of the '314 application. Hence, the ordinary skilled in the art, given both applications, would have been motivated to combine the two, so as to provide a stereo viewer for viewing stereo images.

- The subject matters of claim 3 in the instant application are fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter,

as follows: the instant application, claim 3, is somewhat a narrow version of claim 1 of the '314 application. The '314 application only lacks the step of a plurality of controls includes one or more controls for adjusting camera offset between points acting as cameras for providing left and right image views of wireframe. However, such a feature can be found in claim 3 of the '314 application. Hence, the ordinary skilled in the art, given both applications, would have been motivated to combine the two, so as to provide a stereo viewer for viewing stereo images.

- The subject matters of claim 5 in the instant application are fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the instant application, claim 5, is somewhat a narrow version of claim 1 of the '314 application. The '314 application only lacks the steps of a plurality of controls includes one or more controls for selecting display of a wireframe either rendered or unrendered... selected surface texture. However, such a feature can be found in claim 5 of the '314 application. Hence, the ordinary skilled in the art, given both applications, would have been motivated to combine the two, so as to provide a stereo viewer for viewing stereo images.

The '314 application and claims obviously encompass the claimed invention of the instant application and differ only in broader steps. The extent that the instant

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claimed invention are narrower and therefore generic to the '314 application's claims [species], In re Goodman 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been claimed in a co-pending application. Accordingly, the granting of the current application would infringe with the claimed invention of the '314 application.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

The limitation of claim 4 of the instant application can be found in claim 4 of the '314 application.

The limitation of claim 6 of the instant application can be found in claim 6 of the '314 application.

The limitation of claim 7 of the instant application can be found in claim 7 of the '314 application.

The limitation of claim 8 of the instant application can be found in claim 8 of the '314 application.

The limitation of claim 9 of the instant application can be found in claim 9 of the '314 application.

The limitation of claim 10 of the instant application can be found in claim 10 of the '314 application.

4. Claims 2-10 are provisionally rejected under the judicially created doctrine of double patenting over claims 1 & 2, 1 & 3, 4, 1 & 5, and 6-10, respectively, of copending Application No. 10/839,584. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The '584 application and claims obviously encompass the claimed invention of the instant application and differ only in broader steps. The extent that the instant claimed invention are narrower and therefore generic to the '584 application's claims [species], In re Goodman 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been claimed in a co-pending application. Accordingly, the granting of the current application would in infringe with the claimed invention of the '584 application.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

5. Claims 2-10 are provisionally rejected under the judicially created doctrine of double patenting over claims 1 & 2, 1 & 3, 4, 1 & 5, and 6-10, respectively, of copending Application No. 10/839,581. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The '584 application and claims obviously encompass the claimed invention of the instant application and differ only in broader steps. The extent that the instant

claimed invention are narrower and therefore generic to the '581 application's claims [species], In re Goodman, 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been claimed in a co-pending application. Accordingly, the granting of the current application would infringe with the claimed invention of the '581 application. Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

6. Any response to this action should be mailed to:

Box

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 308-9051, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

(703) 308-5359 for informal or draft communications, please label "PROPOSED"

or DRAFT")

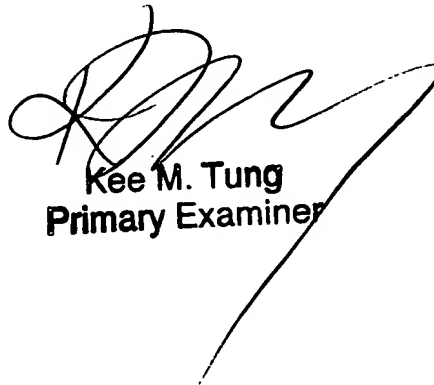
Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA , 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesner Sajous whose telephone number is (703) 308-5857. The examiner can also be reached on Mondays thru Thursdays and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Matthew Bella, can be reached at (703) 308-6829. The fax phone number for this group is (703) 308-6606.

Wesner Sajous

January 3, 2005



Kee M. Tung
Primary Examiner